

Amendment No. 1 to HB1569

**Fowlkes
Signature of Sponsor**

AMEND Senate Bill No. 1539*

House Bill No. 1569

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

By deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 62-20-124, is amended by deleting such section in its entirety and substituting instead the following:

(a) A collection service holding a valid license under this chapter may take assignment of accounts, bills, notes or other indebtedness held by another person or entity, for the purpose of billing, collecting or filing suit in the collection service licensee's own name, as the real party in interest, if all the following requirements have been met:

(1) The assignment was voluntary, properly executed, and acknowledged by the person or entity making the assignment to the collection service licensee;

(2) The original agreement between the creditor and the debtor does not prohibit assignments;

(3) The assignment was manifested by a written agreement stating the effective date of the assignment and the consideration paid or given, if any, for the assignment. The written agreement must also disclose that the collection service licensee may, for purposes of litigation, consolidate the assigned account, bill, note or other indebtedness with those of other creditors against the individual debtor or co-debtors; and

(4) A collection service licensee bringing suit in its own name as an assignee may submit an affidavit of sworn account that has been executed under oath by the assigning party or by a person qualified to execute a sworn account pursuant to § 24-5-107(a). A copy of the sworn account shall be filed with the court for service upon the debtor.

(b) A collection service licensee may commence litigation for the collection of an assigned account, bill, note or other indebtedness in a court of competent jurisdiction located in any of the following counties:

(1) The county in which the debtor signed the account, bill, note or other indebtedness sued upon;

(2) In the case of consolidated accounts that all arose from the same county, the county in which all of the consolidated accounts, bills, notes or other indebtedness arose; or

(3) The county in which the debtor resides at the commencement of the action.

(c) No collection service licensee shall commence any litigation authorized by this section, unless the collection service licensee appears by an attorney admitted to practice law in the state of Tennessee.

(d)

(1) For purposes of commencing litigation, a collection service licensee that has taken an assignment or assignments pursuant to this section may consolidate the assigned accounts, bills, notes or other indebtedness of one (1) or more creditors against one (1) individual debtor or co-debtors, in one (1) case. Each assigned account, bill, note or indebtedness must be separately identified and plead in any consolidated action authorized by this section. The individual amount of each account, bill, note or other indebtedness that forms the basis for any consolidated action shall not exceed two hundred dollars (\$200) each, as identified and plead by the collection service licensee, exclusive of court costs, attorney fees and interest that may have accrued before the filing of the consolidated action. The aggregate amount of consolidated accounts, bills, notes and other indebtedness in any one (1) case shall not exceed five hundred dollars (\$500), as identified and plead by the collection service licensee, exclusive of court costs, attorney fees and interest that may have accrued before the filing of

the consolidated action. Court costs shall be assessed to the losing party.

Interest and attorney fees and reimbursable expenses shall be assessed against the losing party, if provided in any of the consolidated accounts, bills, notes or other indebtedness, or as otherwise permitted or required by law.

(2) If a debtor or co-debtor files a sworn denial or otherwise raises a dispute concerning any account, bill, note or other evidence of indebtedness, the court shall dismiss the account, bill, note or other evidence of indebtedness, without prejudice. The collection service licensee may bring a separate case for any such disputed account, bill, note or other evidence of indebtedness within one (1) year of dismissal; provided, however that the disputed account, bill, note or other evidence of indebtedness cannot be consolidated with any other account, bill, note or other evidence of indebtedness.

(3) For any account on which an affidavit of sworn account is filed pursuant to § 24-5-107(a), a separate affidavit must be filed for each account in a consolidated action.

(4) On the face of any warrant or other pleading filed in any consolidated action, or in an attachment thereto, the collection service licensee shall state the order in which the creditor intends to apply payments received on any judgment obtained in the consolidated action. The collection service licensee shall also state that payments will be applied as stated unless the debtor instructs otherwise in writing or the court orders otherwise.

(e) Nothing in this section relieves a collection service licensee from complying with the "Fair Debt Collection Practices Act," 15 U.S.C. § 1692, as amended, or deprives any debtor of the right to assert defenses as provided therein.

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it.